

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

FITERMAN INVESTMENT FUND;
VERDEWAY INVESTMENT PARTNERS LLC;
STEVEN FITERMAN, individually, and in his
capacity as General Partner of FITERMAN
INVESTMENT FUND; SUSAN FITERMAN,
individually, and in her capacity as General Partner
of FITERMAN INVESTMENT FUND; STEVEN
C. FITERMAN LIVING TRUST DATED 1/6/95,
AS AMENDED; SUSAN L. FITERMAN LIVING
TRUST DATED 1/6/95, AS AMENDED,

Defendants.

Adv. Pro. No. 10-04354 (SMB)

STIPULATION AND ORDER

The plaintiff, Irving H. Picard, trustee (the “Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities (“BLMIS”) and the estate of Bernard L.

Madoff, individually, and defendants Fiterman Investment Fund, Verdeway Investment Partners LLC, Steven Fiterman, individually and in his capacity as General Partner of Fiterman Investment Fund, Susan Fiterman, individually and in her capacity as General Partner of Fiterman Investment Fund, Steven C. Fiterman Living Trust Dated 1/6/95, As Amended, and Susan L. Fiterman Living Trust Dated 1/6/95, As Amended (together, the “Defendants”), by and through their respective, undersigned counsel (collectively, the “Parties”), state as follows:

WHEREAS, the Trustee commenced the above-captioned adversary proceeding by Complaint on November 30, 2010;

WHEREAS, on June 27, 2016 this Court entered in this adversary proceeding a Stipulation and Order as to Undisputed Transfers signed by the Parties (ECF No. 74) (the “Stipulation on Transfers”);

WHEREAS, the Trustee desires to amend the Complaint.

NOW, THEREFORE, the Parties agree and stipulate to the following:

1. Defendants consent to the Trustee filing an amended Complaint, in the form set forth as Exhibit A attached hereto (the “Amended Complaint”), pursuant to Rules 7015 and 7021 of the Federal Rules of Bankruptcy Procedure and Rules 15 and 21 of the Federal Rules of Civil Procedure.

2. Upon the Trustee’s filing of the Amended Complaint and service of same, the time for the remaining Defendants to move, answer or otherwise respond to the Amended Complaint shall be forty-five (45) days from service of the Amended Complaint. Defendants waive service of a summons and shall accept service of the Amended Complaint by e-mail through the counsel identified in the signature block below.

3. In accordance with Federal Rule of Bankruptcy Procedure 7041, and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to the dismissal without prejudice of defendants Steven C. Fiterman Living Trust Dated 1/6/95, As Amended, and Susan L. Fiterman Living Trust Dated 1/6/95, As Amended. Accordingly, the caption for this adversary proceeding is amended and shall appear as indicated in Exhibit B to this Stipulation and Order.

4. Defendants waive any defense that the Trustee's claims against them, as and to the extent set forth in the Amended Complaint, do not relate back to the initial filing date.

5. This Stipulation and Order is without prejudice to (i) the Trustee's right to amend or further amend his pleading as a matter of course under Rule 15(a)(1) of the Federal Rules of Civil Procedure, as incorporated by Rule 7015 of the Federal Rules of Bankruptcy Procedure, and (ii) the Defendants' right to object to any such amendment.

6. Except as otherwise stated herein, Defendants reserve all rights and defenses they may have, and entry into this Stipulation and Order shall not impair or otherwise affect any such rights and defenses.

7. This Stipulation and Order may be executed in any number of counterparts and all such counterparts shall together constitute one and the same agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE TO FOLLOW]

Dated: New York, New York
December 8, 2016

**WINDELS MARX LANE &
MITTENDORF, LLP**

By: /s/ Howard L. Simon
Howard L. Simon, Esq.
Kim M. Longo, Esq.
John J. Tepedino, Esq.
156 West 56th Street
New York, NY 10019
Telephone: (212) 237-1000
Facsimile: (212) 262-1215

*Special Counsel for Irving H. Picard, Trustee
for the Substantively Consolidated SIPA
Liquidation of Bernard L. Madoff Investment
Securities LLC and Bernard L. Madoff*

LOEB & LOEB LLP

By: /s/ Daniel B. Besikof
P. Gregory Schwed, Esq.
Daniel B. Besikof, Esq.
345 Park Avenue
New York, New York 10154
Tel: (212) 407-4000
Fax: (212) 407-4990

Attorneys for Defendants

SO ORDERED:

Dated: December 9th, 2016
New York, New York

/s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE